as between conductor and passenger, the ticket is conclusive. However, this was not a controlling element in the case, as the court distinctly disapproves an instruction of the lower court embodying the rule of the conclusiveness of the evidence afforded by the ticket, and cites with approval *Winter* v. *Railway* (supra) and other cases which modify or deny the rule.

By taking this stand the court places itself in accord with the view which, it is believed, is supported by the decided weight of modern authority. 5th Am. & Eng. Encyc. of Law, 603; *Penna. Co.* v. *Bray*, 125 Ind. 229; *Murdock* v. *Railway*, 137 Mass. 293; *Sloane* v. *So. Cal. Railway*, 111 Cal. 668; *Muckle* v. *Rochester R. R.* 79 Hun 33, (limiting *Townsend* v. *Railway*, supra.)

CONFLICT OF LAWS—BONA VACANTIA—RIGHT OF SUCCESSION—"MOBILIA SEQUUNTUR PERSONAM."—An Austrian who was entitled to a fund in court in England, died in Vienna, a bastard, intestate and without heirs. By Austrian law the succession of an Austrian citizen in such a case is confiscated as heirless property by the *fiscus*. The Austrian government having claimed the fund: *Held*, that as the right claimed was not in the nature of a succession, the maxim "*Mobilia sequuntur personam*," did not apply, and that the crown by the law of England, was entitled to the fund as *bona vacantia*. *In re Barnett's trusts*, [1902] 1 Ch. 847.

The property here appertained to the crown, as *jure regalia*. The fact that the Austrian died heirless made his domicile immaterial. *Dyke* v. *Walford*, 5 Moo. P. C. 434; WESTLAKE'S PRIV. INTER. LAW, 3d ed. p. 168. sec. 62. This decision is in direct conflict with the theory which now undoubtedly prevails in Germany, that if there is no one nearer in blood to be called to the succession, a man's fellow-citizen is regarded as his heir. BAR'S PRIV. INTER. LAW, 2d ed. p. 843, Sec. 387. The American courts have not as yet decided upon this particular question; however, they seem to favor the English rule. *Mayo* v. *Equitable, etc., Society*, 71 Miss. 590; *Ross* v. *Ross*, 129 Mass. 343.

CONFLICT OF LAWS—ITALIAN MARRIAGE—DECEASED HUSBAND'S BROTHER.—A naturalized Italian woman, domiciled in Italy, married her deceased husband's brother, an Italian, domiciled in Italy. The marriage, which was solemnized in Italy, after the necessary dispensations had been obtained, was undoubtedly valid in Italy. In an action in England involving the validity of the marriage, *Held*, that, notwithstanding Lord Lyndhurst's act, the marriage was valid in England. *In re Bozzelli's Settlement*, *Husey-Hunt* v. *Bozzelli*, [1902] I Ch. 751.

The law of the common domicile is sufficient to determine marriage capacity, except in case of marriage stamped as incestuous by the general consent of Christendom. *Brook* v. *Brook*, 9 H. L. C. 193; *Sottomayor;* v. *De Barros*, [1887], 3 P. D. 1. Such American decisions as there are, seem to be in conflict with this holding: *Medway* v. *Needham*, 16 Mass. 157; *Sutton* v. *Warren*, 10 Met. 451.

CONSTITUTIONAL LAW—EQUAL PROTECTION—REFUSING BARBER'S LICENSE TO AN ALIEN.—A statute of Michigan (Acts of 1899, No. 212) provided for the examination and licensing of barbers. The statute also provided that no person examined should receive a certificate who at the time of such examination was an alien. Relator, who was a resident of the state but not a citizen (though he had declared his intention to become one) applied for examination, but his application was rejected on the ground that he was an alien. He then applied for mandamus, contending that the provision was in violation of the Fourteenth Amendment, in that it denied to him the equal

protection of the laws. *Held*, that his contention was well founded and that the writ should issue. *Templar* v. *State Board of Examiners of Barbers*, (1902), — Mich. — , 90 N. W. Rep. 1058.

The court cited and relied upon *Barbier* v. *Connolly*, 113 U. S. 27, 5 Sup. Ct. Rep. 357, 28 L. ed. 923; *In re Grice*, 79 Fed. Rep. 627, 645; *Fraser* v. *McConway & Torley Co.* 82 Fed. Rep. 257; *People* v. *Warren*, 34 N. Y. Supp. 942, saying:—

"All persons are entitled to enjoy the equal protection of the law, and while it may be competent for the legislature, in the exercise of its police powers, to provide for an examination and licensing of barbers, as was held in *State* v. *Zeno*, 79 Minn. 80, 81 N. W. 748, 48 L. R. A. 88, 79 Am. St. Rep. 422, and *Ex parte Lucas*, 160 Mo. 218, 61 S. W. 218, would it be contended that the legislature might provide that only white persons should be licensed?

"The difficulty with this enactment is that all persons brought under the influence of this legislation are not treated alike, under the same conditions and circumstances. Before the enactment of this statute the plaintiff had the undoubted right to ply his trade in Michigan. In the exercise of the police power, the legislature had the undoubted right to require, as a pre-requisite to his plying his trade, that he submit to an examination. But had it the right to require citizenship? If it had the right to couple that with other requirements, it would have the same right to make that the only requirement. In other words, it would have the right to exclude alien labor wholly. We think the cases cited demonstrate that it had not this power. A very different question is presented than in a case of the requirement for admission to the bar, for example, as in such case the statute confers upon the applicant who is admitted to the profession an office. He becomes an officer of the court. So, too, a different question is presented than was before the court in *Trageser* v. *Gray*, 73 Md. 250, 20 Atl. 905, 9 L. R. A. 780, 25 Am. St. Rep. 587,—a case much relied upon by the attorney general. In that case the question presented was whether aliens could be excluded from engaging in the business of retailing liquors. This is a business peculiar to itself, which might be wholly prohibited by the legislature, and licenses might be confined to a limited number. We need not, therefore, inquire whether such legislation is an infraction of the rights of the individual, not a citizen. But in the present case the relator's business is in no way injurious to the morals, the health, or even the convenience of the community, provided only he has the requisite knowledge upon the subjects prescribed by the legislature to practice his calling without endangering the health of his patrons. To hold that he is not entitled to practice this calling, because not a full citizen of the United States, is to deny to him rights which we think are preserved by the Fourteenth Amendment."

Compare with the following case.

CONSTITUTIONAL LAW — EQUAL PROTECTION — REQUIRING EXAMINATION OF GRADUATE OF MEDICAL SCHOOL OF OTHER STATES.—A statute of Wisconsin provided generally that in order to obtain a license to practice medicine in that State, the applicant should produce a diploma from a reputable medical school and submit to an examination. There was, however, a proviso that a graduate from medical colleges in the State should be exempt from examination. Relator who was a resident of the State and a graduate of a reputable Chicago medical college applied for a license to practice, which was refused until he had submitted to the examination. He contended that the requirement of an examination in his case, while none was required of graduates of colleges within the State, violated Sec. 2 of Art. 4, and also Sec.